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TESTIMONY ON SENATE BILL 2053

"COMMUNITY AND FAMILY LIVING AMENDMENTS OP 1983"

Presented Before the Senate Finance Subcommittee on Health

by

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Mr. Chairman, members of the committee, my name is Leonard W. .
Levine, and I am the Commissioner of the Minnesota Department of
Human Services. I am before you to present testimony on Senate
Bill 2053s 'the "Community and Family Living Amendments of
1983".

Senate Bill 20-53 embodies many concepts that describe Minnesota' s
current program initiatives in services to persons with mental
retardation and, as important, values that are shared by most
Minnesotans. Chief among these are:

- support of family integrity by providing services
close to family and friends;" -recognition that life
in the community not only enriches the lives of all
of us, it also provides a potent habilitative
environment for persons with severe disabilities;
- recognition that careful service planning and assurance of
quality in the service delivery system are essential;

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- protection of the rights and benefits of current employees; and,
- that meaningful vocational training and employment opportunities are essential to the personal independence of persons with severe disabilities.

In these areas, Minnesota supports strongly the public policy and leadership demonstrated by S.B. 2053- Indeed, I can tell you from Minnesota's experience, that these are necessary elements of a responsive, humane system of public and private human services.

The concepts embodied in S.B. 2053 represent sound national policy and an affirmation of Minnesota's own policy initiatives. However, the mechanics of the current Bill present Minnesota with some severe, and possibly insurmountable implementation problems.

Senate Bill 2053 proposes a definition of "developmental disabilities" that is far more encompassing than current Minnesota laws. Currently, Minnesota statutes set forth clear criteria for determining the presence of mental retardation or mental illness. The Minnesota Legislature appropriates resources for the provision of services based on a clear, historical under-

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standing of the nature of the services provided and the needs of Minnesotans who receive the services.

The "Community and Family Living Amendments of 1983" proposed definition is less well articulated than that which has been established by the Minnesota Legislature. By mandating the proposed definition, the Congress will create conflicts and confusion between Federal program leadership and Minnesota's established policy aims. However, and more significantly, it is unlikely that an adequate infusion of resources from federal or state sources will be available to provide quality services to newly eligible persons. The result will be fewer and eventually poorer quality services to meet the human and habilitation needs of the most vulnerable among us. - '

In addition to the admirable program policy goals of S.B. 2053, the Bill represents a major effort to align the federal government's funding policy with its human service program policy. We concur with this concept and assert that without such an effort program policy goals cannot be effectively implemented.

As federal program policy has shifted rapidly away from the provision of "care" in large, segregated facilities and toward small, community-integrated, habilitation-oriented services, federal funding and regulatory policies have been slow to respond. The result has been a clear federal emphasis on community-based

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service delivery with funding and regulatory policy continuing to provide incentives for providing services in large "care" facilities. Minnesota's efforts to respond to this change in program policy in the face of federal funding and regulatory mechanisms that encouraged the development of large facilities and discouraged the development of small, community-based facilities has been labored and has resulted in costly and protracted litigation. In this regard, Minnesota's experience has been similar to that of some other states.

Recently, the advent of the medicaid home and community-based services waiver has been a first step towards aligning federal program and funding policies, and has stimulated a significant amount of activity related to the development of small, community-based services. The medicaid waiver is a first step which deserves continued support and study.

Minnesota has followed the federal policy lead by beginning implementation of the medicaid waiver. However, we are beginning the waived services program initiative in an environment that is the product of following the direction of federal funding policies in the not too distant past. The existing service system is one in which only 636 Minnesotans with mental retardation

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live in community-based ICFs/MR of six or less; 2,198 live in community-based ICFs/MR of 7-16; 1,527 live in community-based ICFs/MR of 17-99; and 841 live in community-based ICFs/MR of 100 or more. In fact, we responded to past federal funding incentives so well that Minnesota now has the highest per capita rate of placement in ICFs/MR with more than 16 residents of any state in the nation -- 110 per 100,000 population. By comparison Louisiana is a close second, and West Virginia has the lowest rate---9 per 100,000 population. I think that it is safe to draw at least three conclusions from these data:

- measures to implement S.B. 2053 must be vastly different from state to state to allow for the considerable differences that exist among the states; -
- Minnesota and some other states will be faced with a monumental administrative task; and, --the proposed sanctions for not complying with the provisions of S.B. 2053 would be uniquely severe for Minnesota and the more than 4,500 individuals who will be affected.

Minnesota is committed to changing our service configuration to achieve a greater variety of small community-based service settings. However, I am certain that the proposed planning and enforcement mechanisms, and the associated sanctions of S.B. 2053 would be * disruptive to our efforts beyond estimate. I urge this committee

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to consider the damage that **the** sanctions and enforcement mechanisms proposed in S.B. 2053 will have on the long-run evolution of service systems in states like Minnesota, and opt for alternatives that build on the successes and lessons of the medicaid home and community-based services initiative, and the use of stronger positive financial incentives for states to achieve the program policy goals of S.B. 2053. In addition, I urge you to consider alternatives which allow for management flexibility for states and tie federal financial incentives to individually determined state goals for program size reduction.

In summary, I would like to reiterate Minnesota's strong and demonstrated support for the program concepts embodied in the "Community and Family Living Amendments of 1983". We share the same vision of the future for persons with severe disabilities. In Minnesota, we have a long tradition of providing humane and effective services to persons with severe disabilities. It is our intention to continue that tradition even more aggressively into the future. However, I must close by stressing that the current implementation and enforcement mechanisms of S.B. 2053 will present monumental, and possibly insurmountable barriers to achieving the goals of S.B. 2053-